



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** Futura Systems Incorporated

**File:** B-241069

**Date:** September 13, 1990

---

Mamoud Sadre for the protester.  
Barbara C. Coles, Esq., Office of the General Counsel, GAO,  
participated in the preparation of the decision.

---

### **DIGEST**

Protester's proposal was properly rejected as late where proposal was delivered by commercial carrier to the agency installation's warehouse and was not received at the office designated in the solicitation by the time set for receipt of proposals.

---

### **DECISION**

Futura Systems Incorporated protests the rejection of its proposal under request for proposals (RFP) No. 1809, issued by the Department of the Interior for microcomputers and software. Futura's proposal was rejected because the contracting officer received it 3 hours and 15 minutes after the closing time for receipt of proposals specified in the solicitation.

We summarily dismiss the protest pursuant to our Bid Protest Regulations (4 C.F.R. § 21.3(m) (1990)) because it is clear on the face of the protest that it is without merit.

The RFP required that all proposals be received at Building 3, Room 3202, 345 Middlefield Road, Menlo Park, California by August 20, 1990, at 11 a.m. The RFP incorporated by reference the standard late proposals clause, Federal Acquisition Regulation (FAR) § 52.215-10, which states that, generally, any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered. The clause also states that the only acceptable evidence to establish the time of receipt at the government installation is the time/date stamp of that installation or other documentary evidence of receipt maintained by the installation.

042431/ +2214

At 2:15 p.m. on the closing date for receipt of proposals, the contracting officer received Futura's proposal. Upon receipt of the proposal, the contracting officer contacted the staff at the installation's warehouse, which is located at a different address than that specified in the solicitation as the office designated for receipt of proposals. According to Interior's warehouse employee, a United Parcel Service (UPS) courier delivered Futura's proposal to the installation's warehouse at 11:05 a.m. As a result, the contracting officer determined that Futura's proposal was late and would not be considered.

Futura contends that its proposal was not late since it was accepted by an authorized agent of the government by the time set for receipt of proposals. Futura bases its allegation on a UPS log which notes 11 a.m. as the time the proposal was delivered to the installation's warehouse and an Interior employee signed the log.

An offer is late if it does not arrive at the office designated in the solicitation by the time specified in the solicitation. Eagle Int'l Inc., B-229922, Mar. 1, 1988, 88-1 CPD ¶ 214. An offer delivered to an agency by UPS or other commercial carrier is considered to be hand-carried and, if it arrives late, can only be considered if it is shown that the paramount reason for late receipt was some government impropriety. Bionics Orthotics and Prosthetics, B-234823, Mar. 28, 1989, 89-1 CPD ¶ 322. A late bid or proposal cannot be considered if the offeror or its agent significantly contributed to the late receipt by not acting reasonably in fulfilling the responsibility to insure delivery to the proper place by the proper time. See Seer Publishing, Inc., B-237359, Feb. 12, 1990, 90-1 CPD ¶ 181.

Here, we do not think that Futura, acting through its agent, UPS, acted reasonably in fulfilling its responsibility to insure delivery of its proposal to the proper place by the proper time. UPS makes all deliveries to Interior to its warehouse, including mail addressed to other buildings. The warehouse is located at 1020 O'Brien Drive. The RFP designated Building 3, Room 3202, 345 Middlefield Road as the place for receipt of proposals. Even accepting Futura's contention that its agent delivered the proposal to the agency's warehouse at 11 a.m., receipt by an employee of the federal government at a place other than that designated in the solicitation does not constitute receipt in the procuring agency's opening office. See Carolina Archaeological Servs., B-224818, Dec. 9, 1986, 86-2 CPD ¶ 662. Further, we do not find any mishandling on the part of the government. The paramount cause of the late receipt

was Futura's failure to allow sufficient time to deliver the proposal to the designated office by the 11 a.m. closing. Consequently, the proposal was properly rejected as late.

The protest is dismissed.

*Christine S. Melody*  
Christine S. Melody  
Assistant General Counsel